

FLOOD CONTROL ADVISORY BOARD

MINUTES

June 28, 2000

The regular monthly meeting of the Flood Control Advisory Board was called to order by Chairman Martin at 2:01 p.m. on Wednesday, June 28, 2000.

Board Members Present: Melvin Martin, Chair; Shirley Long, Secretary; Hemant Patel; Paul Cherrington, Ex Officio; Ray Dovalina, Ex Officio (for Tom Callow).

Board Members Absent: Gilbert Rogers, Vice Chair; Mike Saager; Tom Callow, Ex Officio.

Staff Members Present: Mike Ellegood, Chief Engineer & General Manager; Julie Lemmon, General Counsel; Tom Johnson, Deputy Chief Engineer/Division Manager; Dick Perreault, CIP/Policy Branch Manager; Joe Tram, Floodplain Delineation Branch Manager; Jim Schwartzmann, Division Manager; Mike Wilson, Property Management Manager; Joe Young, Chief Financial Officer; Lisa Amos, Property Management Supervisor; John Stock, Mapping & Surveying Branch Manager; Kathy Smith, Clerk of the FCAB; Monica Ortiz, Administrative Coordinator.

Guests Present: Ed Fritz, MCDOT; Steve Granillo, FMD; Mike Heaton, HDR Engineering; Gary LaForge, City of Chandler; Kelli Sertich, MCDOT; Felicia Terry, Michael Baker Engineering; Jon White, MCDOT.

Because the Advisory Board did not have a quorum to begin the meeting, the Chairman asked that we begin with Agenda Item 4, which was an item for information only.

4) FY 99/00 Third Quarter Budget Performance.

Joe Young, Chief Financial Officer, presented the FY 99/00 Third Quarter Budget Performance as an informational item. Mr. Young showed a comparison of the annual budget amounts to the actual budget amounts for revenue and expenditures as of 5-31-00, which is 91.67% of the fiscal year.

Discussion:

Martin: Did you say it took seven years for the reimbursement of the 1993 flood event?

Young: In effect it took seven years. There was a period of time between the actual damage that was done and the time that we started the application process. It probably took us a good five years from the time that the application process started before we collected all of the funds.

Martin: What is the actual balance that you are carrying over from last year? What is your cash balance now?

Young: We started this fiscal year with a \$36 million fund balance. We are projecting that we will go out of this fiscal year with approximately \$24 million.

Martin: Some of that money is committed isn't it?

Young: We figure that we need about \$11 or \$12 million to start a new year with before our revenue starts coming in, so from that standpoint, it is committed. We have approximately \$12 to \$13 million that is an unreserved fund balance at the present time. Mr. Perreault has plans to use up that uncommitted fund balance by the end of this coming fiscal year.

Patel: In the past there has been stuff in the press about how long it takes other parts of the County government to get properties and development on to the tax rolls. Are we still experiencing any problems in that area in terms of collections?

Young: If I understand the question, we do not pay property taxes on the properties that we buy. We are tax exempt. If we do not buy the properties prior to a certain time of the year, then we have to pay those taxes.

Patel: This is on new development. I remember we discussed homes in the new developed areas not getting on the County tax rolls for close to two years. I know that affects us directly.

Ellegood: The County for the past two years has been very aggressively addressing this issue. I do know, from my workings with the other departments, that this has been identified as an issue, additional staffing and resources have been addressed, and my understanding is that the situation has been corrected within acceptable limits.

Martin: The biggest problem there is they don't go on the tax rolls until they have an occupancy permit.

Mr. Ellegood announced to the Advisory Board that earlier this week he named Joe Young to be the District's Chief Financial Officer.

- 1) Approval of the Minutes of the regular meeting of May 23, 2000.

Ms. Lemmon asked for a correction to the minutes. At the bottom of page 6, Ms. Lemmon asked that her last comment read, "The District is limited to designate a floodplain in the unincorporated area. Under state law, once a city takes over its jurisdiction under the statutes, the Flood Control District cannot go into that jurisdiction and delineate a floodplain without the jurisdiction's permission. The decision . . ."

MR. PATEL MADE A MOTION TO APPROVE THE MINUTES AS AMENDED. MS. LONG SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

- 2) Zone "A" Floodplain Delineation Program.

Mike Ellegood stated that this item is a change to an earlier presentation the Advisory Board heard dealing with the Zone "A" Floodplain Delineation Program. This item was heard by the FCAB and approved at the April meeting. Subsequent to that meeting and under advice of counsel, we made some changes in the program.

Joe Tram, Floodplain Delineation Branch Manager, presented this item for Advisory Board approval to substitute alternative watersheds for Zone "A" Floodplain Delineations. The program was previously approved in April for the delineation of Watersheds OO and RR. In April, the FCAB requested to be informed if additional or alternative floodplains were to be studied. Based upon litigation in the Gillespie Dam area, which was the Zone RR area, legal counsel advised FCD to find alternative sites. The District is recommending that Watershed UU and NN be

substituted for Watershed RR until the litigation has been resolved. Watersheds OO and RR were budgeted for about 700 linear miles at \$1.5 million. FCD is requesting alternatives of 625 linear miles with the same dollar value. Based upon the flat terrain in Watershed NN, the District may have to augment the USGS topography with additional topography, thus the same dollar amount for fewer.

Staff recommended that the FCAB approve the alternative watersheds under the Zone "A" Floodplain Delineation Program.

MR. CHERRINGTON MADE A MOTION TO APPROVE STAFF RECOMMENDATIONS.
MR. PATEL SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

- 3) Explanation of the Lands Division's Acquisition and Property Management responsibilities, functions and procedures.

Jim Schwartzmann, Division Manger for the Public Works Land & Right of Way Division, presented information on the Property Engineering Branch and the Acquisition Branch of his division. A couple of years ago the Land Divisions from FCD and MCDOT were joined together in an intensive collaboration effort and now function as a single division. Generally, the acquisition of land is twofold. Mr. Schwartzmann gave a brief overview of the Statutes as they relate to the kinds of work done to acquire property for various projects and to sell & lease property. The land acquisition element is a major program within the Flood Control District. This year the District spent approximately \$10 million acquiring property. There is also the potential to generate fairly significant amounts of revenue based on sales, leases, and easements.

Mr. Schwartzmann went through the steps of the Property Engineering stage:

- ✍ Obtain Right of Way Requirements from Design Consultant
- ✍ FCD Staff ID's Assessor Parcels Under ROW for Ownership Information
- ✍ Order Preliminary Title Reports
- ✍ Develop and Complete Legal Description and Maps

The Appraisal Process consists of:

- ✍ Using Contract Appraisers to do our work
- ✍ Requesting Appraisals on Right of Way Parcels Needed
- ✍ In House Reviews – FCD has ROW agents who are also certified review appraisers

Some of the items identified in the appraisals are:

- ✍ Zoning of the property
- ✍ Highest and best use of the property
- ✍ Comparables are used for similar kinds of properties and are adjusted in the appraisal
- ✍ All appraisers are required to understand and complete a before and after approach
- ✍ Improvements are reviewed and looked at in the appraisal process

Once there is an appraisal and a legal description is put together, an offer letter is prepared and sent to the owner. Then the right of way agent creates all necessary documents and files for the property transfer. In many cases, fee title is obtained for the property in order to produce a deed for the owner to sign. In some cases, easements are drafted up. The right of way agent explains the project appraisal and answers questions and makes an offer to the landowner. Acquisition may entail relocation and the FCD has staff expertise in that area. If the owner agrees to the FCD value and terms, we go to escrow and close the deal. There are times that the District must go to condemnation through a court-litigated action. If the owner doesn't agree, the FCD has the

authority to condemn the property. Condemnation actions can take 90-120 days to obtain possession of the property, but it can take years in order to finalize a condemnation. The District creates a certification book, which documents all of the transactions that had to do with ownership on the particular parcel. Finally, the District goes to bid for construction.

Discussion:

Martin: Are you saying that for the property we sometimes buy for retention areas located in a floodplain, your appraisers look at it the same as if it were sub-dividable?

Schwartzmann: Not necessarily. For example, if a portion of a property were in a floodway, the appraiser would be required to look at the legal uses that were allowed on there. In a floodway, you're not allowed to place habitable structures. In areas that are perhaps in a floodplain area, the flood fringe outside a floodway, there are elements that can be done. They wouldn't look at it from the standpoint of being able to put houses there, but they would look at it from the standpoint of the highest and best use of that property

Martin: You're not looking at the zoning as a potential zoning?

Schwartzmann: We encourage our appraisers to talk with the owners, but what they are required to do is go to the City with local zoning authority and find out if there is any chance of this ever being zoned commercial or industrial, if it were a residential zoning.

Martin: They will look at the approved master plan for an area, right?

Schwartzmann: Absolutely. Most of our appraisals do have copies of those documents in there.

Martin: If the owner doesn't agree to an offer, does he get an appraisal and see if the two appraisals meet heads or do you just condemn it and then let it go to court?

Schwartzmann: If we can, we try to work with the landholder. If the owner believes he has some comparables, even without an appraisal, that better reflect the value of his property, we'll accept those and have our review appraisers look at them and try to adjust and see if we can come to an agreement on that. If not and we have no time, we will allow them to get another appraisal and we'll look at both appraisals and see where we go from there.

Martin: Do you give the owner a letter of future condemnation even if they settle? For instance, if the city buys a piece of property from you, they send you a letter stating that if you don't agree to this they're going to condemn it anyway. This puts the property under a different tax statute.

Schwartzmann: We don't always do that, but if people request it we do. It's implicit from the Flood Control District's standpoint, depending on the resolution we do, that we have the power of eminent domain and we can condemn. They can make a claim, even if we came to a handshake agreement on the value, they can still say it was under the threat of condemnation, and that does occur, often with our acquisitions.

Martin: IRS requires a letter.

Schwartzmann: We would do that if necessary.

Martin: The title company doesn't prepare the documentation of ownership?

Schwartzmann: The title company would record the deed, but it might not record any offers on relocation or offers laid out for actual acquisition of the property.

Mike Wilson, Manager of the Property Management Branch for the Public Works Land & Right of Way Division, presented information on the Property Management functions. Property management is responsible for any disposition of the property that the District controls. The disposition is done in three basic ways, either through sales, leasing or granting of easements. The District generated \$2.1 million through sales, \$0.75 million through leasing and \$0.5 million through right-of-way granting this fiscal year. Property Management is also responsible for dealing with the day-to-day management, maintenance and ownership questions that are brought to us from the general public.

On the sales process, prior to the District being able to sell property, they have to have it declared excess property, which includes the following steps:

- ✍ A recommendation by a Project Manager within the District
- ✍ The Land Division staff reviews the request
- ✍ Present the recommendation to the Excess Lands Committee, which is an internal committee made up primarily of District management.
- ✍ If the committee concurs, and the property is in excess of \$250,000 in value, it goes to the FCAB
- ✍ Then it goes to the Board of Directors for their approval

Once the District has the approval to dispose of the property, Property Management does certain functions to enhance the value of that property to achieve the highest and best use and the maximum market value for the sale of the property. That can be done through the following:

- ✍ Get Title Reports done to make sure there are no encumbrances on the title
- ✍ Verify floodplain information
- ✍ Re-zone the property to higher density
- ✍ Have the O&M staff clean up the aesthetics of the area
- ✍ Have marketability and feasibility studies done

The pre-marketing that the District does is to generate interest in their properties. The most effective way of marketing is putting signage up on the property or mailing out information packets. When there is an interested buyer from a local municipality, the District can sell to them without going to public auction. The alternative is to go to public auction.

The second way of disposing of property is by leasing. There are interim use leases, which are short-term leases that are put in place to recapture some revenue prior to a project going in. The other way to lease is to renew leases on declared excess properties.

The third disposition is through easements. Most easements at the District are initiated for a permit application. Basically, these permits take the form of a temporary construction easement, which allows contractors or other interested parties to get out onto the property.

Other functions that Property Management is responsible for are:

- ✍ Mitigating encroachment situations on District property
- ✍ Relocation activities
- ✍ Handling public complaints and inquiries
- ✍ Other items include managing & maintaining water rights records, reviewing tax bills, coordinating demolition on acquired property, coordinating environmental assessments & mitigation, and dirt brokering.

Discussion:

Patel: Is there any thought in using the Internet in terms of marketing the property?

Wilson: We do use the Internet. We have a web page at the District and MCDOT. All of our available properties are on both the MCDOT and FCD web pages.

Patel: That's updated quite regularly?

Wilson: Yes

5) Transportation Needs Assessment & Funding Options Study.

Mr. Ellegood mentioned that the District works very closely with MCDOT on a number of projects. The District is embarking on a major planning effort to plan future projects and are coordinating very carefully with MCDOT and their planning efforts.

Kelli Sertich, Maricopa County Department of Transportation, gave an overview of a Transportation Needs Assessment and Funding Options Study that MCDOT started approximately two years ago. The reason the project was done was that, in looking at their capital improvements program, MCDOT saw a fluctuation as to how their funding was going. They wanted to find out if there was an issue there that they should be concerned with. They hired a consultant whose task was to assess the transportation system and all of their future needs, see what the system was, and how they were going to pay for it. Within the next twenty years, it is estimated that \$2.8 billion will be needed for road construction and maintenance of the MCDOT roadway system and revenues will amount to \$1.75 billion, leaving a potential \$1.1 billion shortfall.

Ms. Sertich summarized the findings of the Study as follows:

- ✍ Enhancing revenues will be both difficult and controversial
- ✍ Initiatives to enhance revenues must come from within MCDOT
- ✍ Workgroup dedicated to revenue is necessary
- ✍ Largest sources are controlled by State and Federal lawmakers
- ✍ Keep on the Legislative Agenda
- ✍ Commitment to partners and working with others County departments

6) Comments from the Chief Engineer and General Manager.

Mr. Ellegood mentioned that the next step in the Doubletree Ranch Road project is to take it to the Board of Directors. The Board has not opted at this juncture to hear the issue yet. Basically, it is out of our hands and in the hands of the elected officials.

Secondly, Mr. Ellegood acknowledged that he was nominated for and received a high-level award for regional leadership. He explained that this was a recognition of the work of the District in taking a more regional and holistic look at things, developing regional partnerships like the District is doing with the trails program, etc. The Maricopa Association of Governments presented the Desert Peaks Award.

Mr. Ellegood referenced the Desert Greenbelt projects – Rawhide Wash, Reata Pass, and Pima Road. These items are of very high-level interest to the City of Scottsdale. The Scottsdale City Council met at a work session to be briefed on the projects and are expected to make a decision whether or not to proceed with these projects. The District believes that there is a genuine danger to existing properties and homes. These homes were constructed on an active-alluvial fan, which has been recognized by FEMA, USGS, Corps of Engineers and the District as being one of the more dangerous places in the country to put a residence. We've conveyed that to the City of Scottsdale, and what they choose to do with that information is their decision.

Mr. Ellegood remarked on the project in Guadalupe involving three basins and a series of inter-connecting channels. A number of challenges recently emerged; one of which was a breakdown in communication between the District and the Salt River Project relative to use of their right-of-way. The right-of-way the FCD thought they had was not available where the District thought it was. Given that, the District has taken a new look at the project. The FCD cannot construct a

100-year facility there. In looking at it, the District felt that better protection could be given to the community if it is looked at as less of a flood control project and more as a City drainage storm water project. The District has proposed downgrading the project from 100-year protection to 10-year protection, which seems to have acceptance by the community. The FCD expects to bring this project to the Flood Control Advisory Board at their next meeting. Mr. Ellegood explained that he brought this up now so that the Advisory Board could start thinking about the project and if there are strong feelings by any of the Advisory Board members, they should bring them forward so that the issues can be addressed. Mr. Ellegood suggested they contact him or Don Rerick who is the project manager, to get a more updated briefing on the project before the next FCAB meeting.

Mr. Ellegood noted that there would not be a FCAB meeting in July in order to break for the summer.

Mr. Ellegood mentioned that the Laveen issue is going along very well. The District has scheduled a progress meeting on July 27 to meet with homeowners. He has instructed the Engineering staff to get a set of plans put together so that the District can start construction in January.

Tom Johnson referenced the award Mr. Ellegood mentioned earlier. Mr. Johnson explained that he wanted to recognize Mr. Ellegood officially in front of the Advisory Board. The award was more significant than Mr. Ellegood let on. Mr. Johnson went on to say that "the leadership he has provided in communicating kinder and gentler, and many of the things that the District is planning right now is due to Mike's insistence and foresight and he probably hasn't received some of the credit he deserves."

7) Summary of Recent Actions by the Board of Directors

Mr. Ellegood mentioned that the Board approved the Flood Control District's budget for next year. He noted that the County would be reducing the secondary property tax again, largely as a result of the District's fiscal prudence.

8) Other Business and Comments from the Public.

The meeting was adjourned at 3:28 p.m. by general consent.

Shirley Long
Secretary of the Board

Kathy Smith
Clerk of the Board